

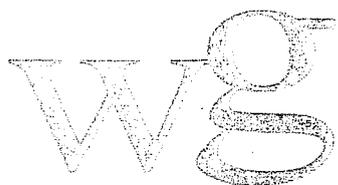
**Transcript of the Deposition of:
KATRINA WINBORN**

November 5, 2009

**IN THE MATTER OF MEDICINE BOW FUEL & POWER, LLC
Docket No. 09-2801**

Taken by: DANIEL GALPERN, Esq.

Court Reporter: CAROLYN LEATHERS, RMR, CRR



WILSONGEORGE
COURT REPORTERS

www.wilsongeorge.com

405 Mason Court, Suite 117, Fort Collins, CO 80524 970-224-3000
600 17th Street, Suite 2800 South, Denver, CO 80202 303-861-5000
801 8th Street, Suite 220, Greeley, CO 80631 970-353-0300

DEPOSITION OF KATRINA WINBORN

2

1 Pursuant to Notice and the Wyoming Rules of
2 Civil Procedure, the deposition of KATRINA WINBORN,
3 called by Sierra Club, was taken on Thursday,
4 November 5, 2009, commencing at 9:18 a.m., at 405
5 Mason Court, Suite 117, Fort Collins, Colorado,
6 before Carolyn Leathers, Registered Merit Reporter,
7 Certified Realtime Reporter and Notary Public within
8 and for the State of Colorado.

9

10 I N D E X

11 DEPOSITION OF KATRINA WINBORN

12	EXAMINATION BY:	PAGE
13	Mr. Coppede	184
14	Ms. Throne	--
15	Mr. Galpern	4, 189
16	Ms. Vehr	178

17

18 EXHIBITS INITIAL REFERENCE

19

19 Exhibit 1 Report of Katrina Winborn, 27
P.E., dated 9-15-09, with
20 attachment

21

21 Exhibit 2 Wyoming Department of 41
Environmental Quality, Air
22 Quality Division, Standards
and Regulations, Chapter 6,
23 Permitting Requirements
(excerpt)

24

24 Exhibit 3 Letter dated 3-4-09 from 62
Finley and Corra to Rolfes,
25 with attachments

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X (Continued)

EXHIBITS	INITIAL REFERENCE
Exhibit 4 Appendix A, Startup/Shutdown Emission Minimization Plan	80
Exhibit 5 Order Responding to Issues Raised in April 28, 2008 and March 2, 2006 Petitions, and Denying in Part and Grant in Part Requests for Objection to Permit, Petition No. IV-2008-3, dated 8-12-09	174
Exhibit 6 URS, Section 6, Near Field Air Quality Impact Analysis, Page 6-3	177

(Attached to original and copy transcripts.)

1 PROCEEDINGS
 2 (Ms. Throne was not present at the
 3 commencement of the proceedings.)
 4 KATRINA WINBORN,
 5 being first duly sworn in the above cause, was
 6 examined and testified as follows:
 7 EXAMINATION
 8 BY MR. GALPERN:
 9 Q Katrina, would you please state your name
 10 and address for the record.
 11 A Yes. My name is Katrina Winborn, and my
 12 address is 8181 East Tufts Avenue, Denver, Colorado
 13 80237.
 14 Q Katrina, have you appeared in a deposition
 15 previously?
 16 A No, I have not.
 17 Q Okay. Have you appeared in a court case
 18 at all?
 19 A No, I have not.
 20 Q Okay. But you understand that you are
 21 required to tell the truth?
 22 A Yes.
 23 Q And you understand that you've been
 24 designated by Medicine Bow Fuel & Power as an expert
 25 witness?

1 A Yes.
 2 Q And you have not been designated as an
 3 expert witness by the Wyoming Department of
 4 Environmental Quality?
 5 A Correct.
 6 Q Neither have you been designated as an
 7 expert witness by the Sierra Club?
 8 A Correct.
 9 Q Now, are you an employee of Medicine Bow
 10 Fuel & Power?
 11 A No, I am not.
 12 Q Have you ever been an employee of them?
 13 A No.
 14 Q Are you under contract with Medicine Bow?
 15 A Yes.
 16 Q Okay. You are --
 17 A Let me clarify that. Currently I'm under
 18 contract with Hickey & Evans, but my company, URS
 19 Corporation, has a contract with Medicine Bow Fuel &
 20 Power.
 21 Q And your company had a contract with
 22 Medicine Bow Fuel & Power well prior to this
 23 deposition?
 24 A Correct.
 25 Q Do you expect to continue to work for URS

1 Corporation on this matter subsequent to -- I'm
 2 sorry -- on the Medicine Bow Fuel & Power facility
 3 subsequent to this case?
 4 A I don't know. It could be reasonably
 5 expected, but I honestly don't know.
 6 Q Now, the contested case in which we are
 7 involved right now has to do with a prevention of
 8 significant deterioration permit, air permit?
 9 A Yes.
 10 Q The facility is also required, I believe,
 11 to secure an operations permit subsequent to
 12 construction?
 13 A Operations permit would be after
 14 construction, after facility startup.
 15 Q After construction has begun?
 16 A Right.
 17 MR. COPPEDE: Could we -- Mary is here.
 18 Could we break. I apologize for interrupting.
 19 MR. GALPERN: Sure. Take a break. Go off
 20 the record.
 21 (Recess from 9:21 a.m. to 9:22, during
 22 which Ms. Mary Throne entered the room.)
 23 Q (By Mr. Galpern) So, Katrina, do you
 24 expect that you would work on the application for a
 25 permit subsequent to construction beginning on the

1 facility?
 2 A I would hope that we would be able to help
 3 them prepare the application for the operating
 4 permit, but I can't say that I expect it. They have
 5 not asked us to do that work, nor have we proposed or
 6 offered to do that work yet.
 7 Q Okay. If URS were to receive that work,
 8 would you be the one in charge of such -- might you
 9 be the one in charge of that permit?
 10 A I might.
 11 Q Okay.
 12 A Unless I'm on a leave of some sort.
 13 Q Now, you joined URS in December of 2007?
 14 A Yes.
 15 Q And the initial application was filed with
 16 DEQ in December 2007?
 17 A The initial application was actually filed
 18 earlier in 2007 --
 19 Q Oh.
 20 A -- before they had a design change to
 21 produce gasoline products.
 22 Q Initially they were going to do diesel?
 23 A Yes.
 24 Q So December 2007 was when Medicine Bow,
 25 through URS, submitted its first version of its final

1 A To be documented in the permit
2 application. I don't know if the exact -- without
3 looking right now, I don't know if the exact language
4 that I've used here is used in the application,
5 though.

6 Q But I gather from your answer that Step
7 2 -- that Step 1 and Step 2 would have been done. In
8 the permit application, they would have identified
9 all available control technologies, and then
10 eliminated all of those -- assessed them for
11 technical feasibility, and then eliminated all of
12 those that they deemed to be technically infeasible?

13 A Yes. Yes.

14 Q Is a leakless valve in pump technology
15 new?

16 A No. Well, I'm sorry, what do you mean by
17 "new"?

18 Q Within the last ten years.

19 A Ten years. I don't know. I don't know an
20 exact date when that technology first began to come
21 out.

22 Q Would you say it's at least four years
23 old?

24 A Yes.

25 Q Where in the record is there documentation

1 Q (By Mr. Galpern) Can a permittee who's
2 obliged to conduct a BACT analysis -- can they avoid
3 consideration of potential control alternatives
4 simply because considering those alternatives would
5 prove difficult?

6 MR. COPPEDE: Object to the form of the
7 question, speculation, calls for a legal conclusion.

8 A No, I don't think so.

9 Q (By Mr. Galpern) Must the BACT analysis
10 of a pollutant be straightforward to be required?

11 A I'm sorry, repeat that. Was the BACT
12 analysis . . .

13 Q Must. Must the BACT analysis be
14 straightforward or simple --

15 A Oh.

16 Q -- to -- of a particular pollutant to be
17 required?

18 A The BACT analysis is required on the basis
19 of being PSD, so, I mean --

20 Q But if it's difficult to do for a
21 particular pollutant, is one relieved of the
22 obligation?

23 A No.

24 Q Okay. You say on Page 20 that "Utilizing
25 leakless valves and pumps would present several

1 of Medicine Bow's consideration as part of its BACT
2 analysis of leakless valve and pump technology?

3 A In the record, I think the only
4 documentation one would find is beginning with this
5 matter we're discussing. I don't think there's
6 anything in the application that speaks to that.

7 Q What do you mean, beginning with this
8 matter we're discussing?

9 A Beginning with Dr. Sahu's report,
10 actually.

11 Q Oh, okay, so nothing in the application?

12 A Right. But, yeah, there's nothing
13 discussing leakless valve technology, although that
14 begs the question of leakless valve technology
15 applied to what part of the plant?

16 Q Yes, I agree. Is there analysis of the
17 option of the use of leakless valve and pump
18 technology anywhere in the record with respect to any
19 part of the plant?

20 A Not that I'm aware.

21 Q Okay. I didn't think so, but I just
22 wanted to check. Katrina, can a prospective
23 permittee --

24 MR. GALPERN: The screen's gone blank.
25 (Discussion off the record.)

1 challenging questions in a BACT analysis, to the
2 extent that it would likely be discounted as a
3 potential control option." What did you mean by that
4 last appositive?

5 MS. VEHR: I don't know that word,
6 "appositive." I don't know that.

7 MR. GALPERN: Appositive, by the last
8 clause.

9 A The statement "to the extent that it would
10 likely be discounted"?

11 Q (By Mr. Galpern) Yes.

12 A That is my attempt -- and I tried to go
13 further into that in the following statements.
14 That's my attempt to say that various issues or
15 questions would come up when one considers
16 implementing leakless valve and pump design as BACT
17 such that it would be considered technically
18 infeasible.

19 Q Okay. So you say that "It seems highly
20 unlikely that a leakless valve make or model would be
21 available for all valve and pump types located at the
22 facility"?

23 A Yes.

24 Q And it seems -- can a facility be required
25 to adopt leakless valve and pump types as BACT even

1 if it's true that they are not leakless, such
 2 components, for all of them?
 3 A That is difficult to answer because when
 4 one considers the possibility of a control option for
 5 leakless valve and pump design, as I said earlier, it
 6 begs the question of what components you would look
 7 at. Would you look at a portion of the facility? If
 8 so, what? Or would you look at the entire facility?
 9 My thought here is that in order for it to be a
 10 viable technology, you would look at the entire
 11 facility because otherwise, to me, in my opinion,
 12 implementing a few or installing a few leakless
 13 valves and pumps falls into a program of leak
 14 detection and repair, which has already been looked
 15 at for BACT. In other words, I have a difficult time
 16 saying that leakless valve and pump design is a
 17 control option under BACT. I think it would be
 18 considered part of the LDAR program.
 19 Q LDAR is leak detection and repair?
 20 A Yes.
 21 Q A leakless valve is not supposed to leak?
 22 A But it will leak.
 23 Q Nevertheless?
 24 A Yes.
 25 Q Just less?

1 Q I don't mean to hold you to a technical
 2 meaning of your terms, but I'm trying to understand
 3 where you are coming from and trying to gain the
 4 benefit of your expertise. And to a layperson like
 5 myself, if you could replace 40 percent of valves and
 6 pumps with leakless versions, that while they may not
 7 be entirely leakless, leak less and would be better
 8 in terms of control technology than not doing it at
 9 all, and thus a fit subject for BACT analysis?
 10 A It's a question, right?
 11 Q Do you agree?
 12 A I am not sure I agree with that. Now, I
 13 do use the word "majority" in this report. I do say
 14 "all" when I'm talking to you today. And then you
 15 introduced the thought of 40 percent of all
 16 components at the plant.
 17 Q Right. But you introduced the thought of
 18 majority at all.
 19 A Right. Right. I think that discussion
 20 highlights or just exemplifies the issue with
 21 considering leakless valves as a -- valves and pumps
 22 as a separate, distinct BACT option, that I think the
 23 better and more environmentally beneficial way to
 24 look at it is to keep leakless valves and pumps
 25 within an LDAR program where you may end up replacing

1 A Just less.
 2 Q Will it leak less?
 3 A Well, by the name, it sounds as if it
 4 will.
 5 Q Down lower where you are quoting EPA's
 6 recently promulgated rule for standards of
 7 performance in the Synthetic Organic Manufacturing
 8 Industry, does EPA consider that leakless equipment
 9 is likely to leak less?
 10 A They do.
 11 Q And you don't -- you do not disagree?
 12 A I do not disagree. I'm certain they've
 13 done more research on this issue than I have.
 14 Q Okay. You say in the same paragraph we
 15 were quoting previously, the one beginning, "One
 16 alternative," in the second sentence, that if you
 17 were going to utilize -- if you are going to consider
 18 as a potential BACT option leakless valves and pumps
 19 that it seems that a majority would need to be
 20 leakless. Previously you were talking about all
 21 valve and pump types, and now you are saying a
 22 "majority" -- or here you are saying a "majority."
 23 A Yes.
 24 Q Majority is more than 50 percent, correct?
 25 A Yes, technically, it is.

1 40 percent of your equipment once it begins leaking
 2 over time. You may replace nothing if you find it to
 3 not be leaking over time. I just think that --
 4 Q You --
 5 MR. COPPEDE: Let her finish.
 6 MR. GALPERN: Sure.
 7 A Well, I just think that this discussion
 8 exemplifies the questions that come up when you try
 9 to think of the program -- of leakless valve and
 10 pumps exclusively as a BACT option.
 11 Q (By Mr. Galpern) And who is suggesting
 12 that that would be the exclusive control option, as
 13 opposed to one in an array of options which together
 14 would be BACT?
 15 A That is what I have interpreted from
 16 reading the reports, reading Dr. Sahu's report and
 17 also the rebuttal. That's how I've interpreted the
 18 statements.
 19 Q Okay. As opposed to, for example, that
 20 this is one of many options that need to be evaluated
 21 from which one or several can be chosen as BACT?
 22 A I just strongly think that this option is
 23 not necessarily an option to be considered, that it
 24 would -- that implementing or installing leakless
 25 valves and pumps would be part of a leak detection

1 precursors?
 2 A Yes.
 3 Q In your report, you mentioned about EPA's
 4 PM2.5 rule promulgation process, and you cited the
 5 final NSR Implementation Rule from May of 2008. Do
 6 you recall that?
 7 A Yes.
 8 Q Are you aware of previous proposed rules
 9 that EPA has made for PM2.5?
 10 A Yes.
 11 Q Have you ever heard the term "significant
 12 increment limits"?
 13 A Yes.
 14 Q Also referred to as SILs?
 15 A Yes.
 16 Q Are you familiar with the term
 17 "significant monitoring concentrations"?
 18 A Yes, I am.
 19 Q That's referred to as SMCs?
 20 A Yes.
 21 Q And are you aware if EPA has promulgated
 22 final rules related to PM2.5 SILs?
 23 A No. My recollection is that those have
 24 been proposed, and I don't recall exactly when, but
 25 they've not been finalized yet.

1 Q Same question in regards to significant
 2 monitoring concentrations.
 3 A Same answer. As I recall, those were
 4 proposed but not finalized.
 5 Q Okay. And I don't have a copy here to
 6 hand out, but I'm going to represent to you that I'm
 7 reading from Dr. Sahu's initial expert report, and I
 8 am on -- give me a second to scroll down -- I am
 9 reading from Page 21 of Dr. Sahu's initial expert
 10 report, and he mentions in Paragraph -- he's
 11 discussing other test methods, and he references an
 12 Other Test Method 27 for filterable PM2.5. He makes
 13 a statement, "While this is not yet a promulgated
 14 test method, it is based on Method 201A."
 15 A Yes.
 16 Q Do you know what a promulgated test method
 17 means?
 18 A Yes, I do. That would be a test method
 19 that has been published in the federal register and
 20 that then would be in the appropriate CFR.
 21 Q Would that be a test method promulgated by
 22 EPA?
 23 A Yes.
 24 Q So would you agree with Dr. Sahu that EPA
 25 has not yet promulgated Other Test Method 27 for

1 filterable PM2.5?
 2 A That's my understanding, yes. I have not
 3 checked the federal registers in the past two days or
 4 so, but that is my understanding right now.
 5 Q And what are other test methods used for?
 6 A Oh, you know --
 7 Q Would it be used for measuring PM2.5?
 8 A Well, just as with a test method, test --
 9 most test methods are to measure something. So I've
 10 not read this test method detail, but other test
 11 methods were filterable, that's what I concluded,
 12 that it's for measuring PM2.5.
 13 Q Would it be an accurate statement to say
 14 that test methods are tools used for evaluating
 15 PM2.5?
 16 A Yes, that's fair.
 17 Q Okay. Are you familiar with what a state
 18 im -- I'm leaving Dr. Sahu's thing right now.
 19 A Okay.
 20 Q Are you familiar with what a state
 21 implementation plan is?
 22 A Yes.
 23 Q And would you just briefly describe what
 24 that is in your words.
 25 A Yes. I know I will get the legal

1 discussion incorrect, but the state implementation
 2 plan is the document that -- I'm not going to get my
 3 legal right -- that provides authorization to the
 4 state. When the state has a -- is delegated
 5 authority for a program, it is written into the state
 6 implementation plan and approved by EPA which
 7 thereby, then, if I understand it right, gives the
 8 state that authority for administering that program.
 9 Q Okay. That's fine. That's in your words,
 10 and that sums it up pretty accurately and concisely.
 11 A Okay.
 12 Q Are you aware of any states that have
 13 submitted PSD NSR implementation programs for PM2.5
 14 since the EPA promulgation of the NSR rule in May
 15 2008?
 16 A No, I'm not.
 17 Q Same question, but are you aware if EPA
 18 has approved any state implementation plans?
 19 A No, I'm not.
 20 MS. VEHR: Okay. I'm just going to scroll
 21 back. Give me one minute here. I think that's all
 22 the questions I have.
 23 THE DEPONENT: Okay.
 24 MS. VEHR: Thank you.
 25 MR. COPPEDE: I may have a few here.